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List of issues in relation to the initial report of Bangladesh

Addendum

Replies of Bangladesh to the list of issues* **

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* The present document is being issued without formal editing.
** The annexes to the present report are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Human Rights Committee.

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Question 1

1. The courts in Bangladesh look to domestic law for dispute resolution and to determine rights and obligations of the disputing parties. Therefore, in the presence of a clearly defining domestic law, the courts do not generally give direct effect to the provisions of the Covenant over the municipal law. The Supreme Court has, however, shown growing inclination to accepting arguments based on international human rights law in deciding cases relating to constitutional rights. For instance, the Supreme Court took into consideration international treaties to deliberate on the right to life in the Constitution when addressing issues relating to the welfare of children and banning tobacco advertisements. The Appellate Division of the Bangladesh Supreme Court back in 2012 Court held in a case that unless provisions of international instruments are contrary to the domestic laws, the beneficial provisions of such instrument may be referred to and implemented in appropriate cases. When domestic laws are clear but inconsistent with Bangladesh's international obligations, the national courts, while obliged to respect national law, at times drew the attention of lawmakers to such inconsistencies.

2. In general, enabling legislations are needed for implementation of international treaties Bangladesh is a party to. However, the mandate of ICCPR, being very wide, it is neither practical nor possible to implement all the treaty provisions by a single statute.

3. The civil and political rights enumerated in the Constitution of Bangladesh are termed as 'fundamental rights' which are enforceable through a Court of Law. Accordingly, Article 102 (1) of the Constitution provides that any aggrieved person may approach the Supreme Court for the enforcement of the fundamental rights enshrined in the Constitution. In such cases, the Supreme Court has the power to give such directions or orders to any person or authority as it deems appropriate.

Question 2

4. Apparently, the counter terrorism laws in Bangladesh including the Special Powers Act 1974 and the Anti Terrorism Act 2009 are not in conflict with any obligation under ICCPR.

5. Under the Special Powers Act 1974, the Government or any District Magistrate or Additional District Magistrate may with a view to preventing a person from doing any 'prejudicial act' make an order to detain him in custody. The 'prejudicial acts' are mainly those intended to either prejudice the sovereignty of Bangladesh and its foreign relation, or affects the security, public safety and order, or creates/excites hatred between communities, etc.

6. The Anti-Terrorism Act provides grounds on which an individual/entity may be tried for committing acts that constitute 'terrorist activities' defined in the Act. Grounds of prosecution and the elements that constitute 'terrorist activities' under Anti-Terrorism Act are provided in Annex 1.

Question 3

7. Article 28 of the Constitution unequivocally states that the government will not discriminate against any citizen on the grounds only of religion; race, caste, sex or place of birth and women will have equal rights with men in all spheres of the State and of public life. The provisions of article 28 being fundamental rights are enforceable (ref response to issue 2, ante). Article 26 of the Constitution further prohibits enactment of laws inconsistent with any provisions of fundamental rights. Because of these provisions, the state machineries are effectively incapacitated from adopting any discriminatory policy on the grounds of religion, race, caste, sex or place of birth.

8. In order to put an end to practice of discrimination in the society, the Law Commission of Bangladesh has finalized the Anti-discrimination Bill, 2015 which is under active consideration of the government.

9. The Rights and Protection of the Persons with Disabilities Act 2013 provides for registration of a person with legally recognized disabilities as a 'disabled person', prohibits discrimination as regards admission to educational institution on grounds of disability, ensures accessibility of disabled person to public places, and proscribes any kind of discrimination on grounds of disability by any authority, institution as regards their rights.

Question 4

10. The Government of Bangladesh made sincere efforts towards prohibition of early marriage of girls and dowry practices prevalent in the society. While the Child Marriage Restraint Act, 1929 prohibits the marriage of girls below 18 years and of boys below 21 years, the Prohibition of Dowry Act 1980 makes giving, taking and abetting the act of giving and taking of dowry is punishable offence. Besides the National Women Development Policy 2011, the National Children Policy 2011, the National Action Plan for Implementation of NWDP 2011, the National Action Plan to Prevent Violence against Women and Children (2013-2025), the Prevention of Cruelty to Women and Children Act (Nari O Shishu Nirjaton Daman Ain) 2000 also govern the issue of child marriage and dowry prohibition. The Prevention of Cruelty to Women and Children Act (Nari O Shishu Nirjaton Daman Ain) 2000 provides for capital punishment for dowry cases involving murder. The Government has enacted the Hindu Marriage Registration Act 2012 to prevent child marriage of Hindu girls. The Mobile Court Act 2009 authorizes the executive magistrates to take preventive measures against child marriage.

11. The Government has drafted a new bill aiming for prevention of Child Marriage that has already been approved by the Cabinet and is in the process of being placed before the National Parliament. The new bill incorporates provision to the effect that the minimum age of marriage will remain the same as earlier. The bill has, however, allowed marriage of girls below the age of 18 in cases where special circumstances warrant, but of course as a matter of exception.

12. Besides various administrative and awareness measures have been taken to put an end to the practice of child marriage in the country, such as, observance of Child Marriage Prevention Day on 29 September each year, forming Child Marriage, dowry and all kinds of sexual harassment Prevention Committees at District, Upazila and Union levels, sensitization and awareness programme through courtyard and community meetings, encouraging girl children to education by providing stipend and mid-day meals at school, establishment of 'adolescent clubs' at the union level for the girls and boys aged between 11 to 17 to share views on child marriage, dowry, violence against women and children, trafficking, and dropout of the schools, mandatory birth registration, marriage registration and use of National ID card, introduction of online birth registration system, enactment of the Hindu Marriage registration Act, 2012, introducing toll free helpline 10921 which is circulated in back cover pages of text books, telecasting audio visual promo and informative documentary through national electronic media, etc. In addition, regular consultation programme against child marriage is organized with stakeholders such as Union Parishad Chairman, Union Parishad member, government officials, Imam (cleric), marriage registrar, students, local elites, etc. The Government arranges training programme for prevention of child marriage on regular basis. As of now, training has been provided to children and adults in 480 Upazilas (75 individuals in each Upazila).

13. According to existing criminal law (section 377 of Bangladesh Penal Code), sexual act between persons of same-sex constitutes 'unnatural behaviour' and is punishable offence. Bangladesh inherited this law as part of their colonial legal system and continues

to pursue the same position considering the prevalent socio-cultural and religious values of the society.

14. In Bangladesh, under the Penal code 1860, induced abortion is illegal except when performed to save a women's life.

Question 5

15. The Government of Bangladesh maintains 'zero tolerance' approach in respect of any crimes committed by the Law Enforcement Agencies. The existing laws do not provide any kind of immunity to the Law Enforcement Agencies for violations of any penal law. For example, recently the Court awarded capital punishment to 27 RAB members including 03 top officials for their involvement in the abduction and murder of seven individuals in Narayanganj. The RAB officials in the case were tried with other non-LEA accused individuals in the same court following same procedure applicable in criminal cases. In addition to the Narayanganj 07 murder case, RAB members have been subjected to another criminal case in Chittagong where Police has submitted charge sheet against 07 individuals including 04 from RAB.

16. Besides, the law enforcement agencies including the RAB members carry out their duties under a number of laws, rules, regulations and code of conduct. Any negligence in duties or any undue use of force in violation of the relevant laws is dealt with appropriate disciplinary actions. After every incident of use of force or exchange of fire by the police, Rapid Action Battalion (RAB) or other LEAs, even though occurred in the course of authorized duty, a series of inquiries and investigations are conducted by competent authorities. If it is found through inquiry that any LEA member has breached any applicable Code of Conduct and human rights, appropriate legal and disciplinary actions are taken against such persons. For instance, till date, more than 2,516 RAB members were brought to legal measures, including imprisonment, dismissal and removal from service for committing various offences and human rights violations.

17. In the context of 2014 general elections, casualties took place primarily due to indiscriminate street violence, arson and other forms of attacks coupled with rioting and strike with a view to disrupting the election process. The main targets of such rampant violence had been innocent civilians, state institutions, public properties and even the law enforcement agencies. Police had to resort to application of force in order to maintain public order and safety of the citizens. During that period in late 2013 and early 2014, nearly 60 persons were killed. Following those incidents 34 cases were filed (23 in 2013 and 11 in 2014). Investigation reports (charge sheets) have been submitted in 22 cases and other cases are under investigation. It is mentionable that during the police actions, 2 persons were shot by the law enforcement personnel. Cases had been filed and as of now 03 investigation reports (charge sheets) have been submitted by the investigating agency.

18. Following the first anniversary of 10th Parliamentary Election, Bangladesh Nationalist Party and its allies called nationwide blockade and strike for indefinite period of time. During the said blockade, the BNP and its allies resorted to various violent attacks including arson, throwing of Molotov cocktail/fire bomb onto the passenger laden vehicles and other important establishments, such as, Minister's residence, Bangladesh Television, private television channel offices, resident Diplomatic Missions in Dhaka, among others. For instance only in a week (05-11 January 2015) there had been a total of 108 incidents of arson and 64 incidents of attacks on motor vehicles/installations reported from all over the country. The three-month long strike caused deaths of about hundred innocent civilians, destruction of public property, and damage to the education and economy of the country. Against those attacks, a total 1755 case had been filed. Out of 1755 cases, investigation reports have been submitted in 1560 cases and 167 are still under investigation. 28 cases have been disposed of on the basis of investigation report (final report).

19. In general, the Police do not arbitrarily intervene in any legal assembly or demonstration unless and until it turns violent and endangers public safety. There had been no complaint lodged against the Police for excessive use of force, arbitrary arrests or so-called 'enforced disappearance' during anti-government campaign in 2015.

Question 6

20. Any individual who receives threats is eligible to request for police protection. The government has instructed all the police stations to provide security to such individuals as and when approached by them. Police has also been instructed to provide security tips to such individuals. Currently as many as 499 eminent persons from the civil society (writers, bloggers, and online activists included) are receiving police protection.

21. In addition, the following measures have been taken to protect the life of journalists and bloggers who have received life threats:

(i) Formation of a Special Task Group (STG) headed by an official not below the rank of Superintendent of Police in Police Headquarters, Special Branch, Criminal Investigation Department and DMP, Deputy Commissioner/ADC/AC in case of other Metropolitans and Inspector in each District is under process. The STG would be responsible for monitoring social networking sites to identify extremist writings which might create instability and take necessary legal and take legal actions where applicable.

(ii) The cybercrime team of detective branch has been directed to identify internet IP, ISP, location and users of face book ID which has been used to cause threats. In addition, based on information received from the bloggers/writers/online activists probable threats against them have been assessed and surveillance has been increased to ensure security.

(iii) The Police stations have been advised to maintain round the clock communication over phone/mobile with the individuals receiving threats and increase surveillance in the periphery of the residence.

22. The Speedy Trial Tribunal has already delivered verdict in the Rajib Haider murder case on 31 December 2015. The verdict convicted 08 individuals for murder of Rajib Haider and awarded capital punishment to 2 and imprisonments in different terms to other 6.

23. Police has submitted investigation report (charge sheet) implicating 5 individuals in the murder case of Washiqur Rahman Babu out of which 3 accused individuals have already been arrested. The investigations are underway in other four cases (Avijit Roy, Niladri Chakrabarti, Ananta Bijoy Das and Faisal Abedin Deepan) Police has arrested 8 suspects in Avijit Roy's case, 07 suspects in Niladri Chakrabarti case and 03 in the murder case of Faisal Arefin Deepan. Status is investigation in these cases is enclosed. (**Annex 2**)

Question 7

24. There had been no instance of seeking or imposing death sentences in connection with petty offences under the Special Powers Act 1974, the Intoxicant Control Act 1990, the Suppression of Terrorist Offences Act, 1992, and the Official Secrets Act, 1923. Mentionable, the Emergency Powers Act 1975 and the Martial Law Regulations, 1975 are not in force anymore.

25. Provisions of death sentence are provided in the Special Powers Act, 1974 for offences like Sabotage, Hoarding or Dealing in Black Market, Counterfeiting, Smuggling, Adulteration of Food or Sale of Adulterated Food or Drink. The Official Secrets Act, 1923 provides that any person convicted of offence of spying may be punished with death penalty in certain cases. In addition, the Intoxicant Control Act, 1990 provides that if any person cultivates produces, manufactures, uses and consumes any intoxicant materials will

be punished with death penalty. During 2009-2016, death sentence was imposed in 2 cases under the Special Powers Act, 1974 and in another 2 cases under the Intoxicant Control Act, 1990.

26. Although there is provision of death penalty in the criminal justice system of Bangladesh, its application is restricted to very selective cases of the most serious and heinous crimes and is applied with due legal process and judicial safeguards. The Constitution of Bangladesh has empowered the President to grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any court, tribunal or other authority. Accordingly, the convicts sentenced to 'death penalty' are entitled to seek Presidential clemency. During 2001-2014, a number of 33 death sentences have been commuted.

27. Recently in the case *BLAST vs. Bangladesh*, the Supreme Court held that any provision of law which provides that a law providing for mandatory death penalty as punishment without exploring other options is not in accordance with the Constitution.

Question 8

28. The table below provides information about number of deaths and causes in the prisons:

Year	*Natural death*	*Suicide*	*Death caused by Riot*	*Death by prison personnel*	***Total***
2012	206	0	0	0	**206**
2013	202	5	0	0	**207**
2014	212	2	1	0	**215**
2015	223	0	1	0	**224**
2016	291	2	0	0	**293**
Total	**1 134**	**9**	**2**	**0**	**1 145**

29. In case of any accidental/unnatural death or any unwanted situation, investigation is done by a committee headed by DIG prison. In case of prisoners' death due to assault by any prison personnel, actions are taken against the responsible officers i.e. Jail Super, Jailor, Deputy Jailor and Civil Staffs, Sergeant, Chief Head Warder, Head Warder, Assistant Head Warder and Warder under the Government Servant (Discipline and Appeal) Rules, 1985 as well as relevant departmental disciplinary provisions. In the last five years, there had been no case of death caused by prison personnel.

30. In order to prevent death of the prisoners, particularly for health reasons, the Government has provided pathological laboratory, medical instruments and adequate medicines to the prison hospitals for rapid diagnosis of diseases. In addition, senior consultant (medicine/surgery), pathologist, radiologist, anaesthesiologist, psychologist have been appointed. The government is also in the process of establishing new prison hospitals. To prevent deaths by other unnatural causes, moral, social, religious and motivational activities as well as recreational facilities have been enhanced. Besides close-circuit cameras have been installed in all prisons to watch untoward incidents inside the prisons.

Question 9

31. According to the Torture and Custodial Death (Prevention) Act 2013, no law enforcement or military personnel is allowed to resort to torture and ill treatment at the moment of arrest or to extract confessions. Such allegations are criminal offence and punishable under law.

32. In 2014-2015, a total of 7 cases have been filed under the Torture and Custodial Death (Prevention) Act, 2013. Among those, 03 of the accused persons have been charged for wrongful arrest and torture causing death, 3 for torture at the moment of arrest and 1 for attempt to murder while in police custody. Investigations in these cases are still underway. 03 cases have been dismissed so far where investigations resulted into final reports.

33. Disciplinary actions have been initiated against 7 police officials. 6 of the cases are under investigation. Penalty (fine) has been imposed against 1 official. In a court judgement delivered on 18 April 2015, Md. Helal Uddin, Officer in Charge of Khilgaon Police Station has been sentenced to three years' of imprisonment for torturing a Dhaka University student in police custody. In the same case, the convict was also fined Tk 10,000, or three months imprisonment in default.

34. The law enforcement personnel are provided with the following trainings on human rights:

- The Right of Detainee in Police Custody
- Tactics of interrogation of Detainee in Police Custody
- Arbitrary Arrest and Torture in Police Custody
- Protection of Human Right and torture prevention for the Police
- Human right standard in the use of force by Police
- Human right and Policing
- Duties of police in dealing with Women and children
- Training of Trainers (ToT) Course on Human rights at the Police Staff College)
- Training Course on Human Rights (Conducted at Police Staff College, Detective Training School, Dhaka Metropolitan Training, 30 In-service Training centers)
- Human Rights Training For the POM Commander (Conducted at Police Staff College)
- Basic training on Human Rights issue to the ASP (probationers), Sub-Inspectors and Constables.

Question 10

35. There are 68 prisons in Bangladesh with a capacity to accommodate 36,614 prisoners. Currently 76,758 prisoners are occupying these prisons. In order to solve the problem, the government has started to build new prisons in 13 districts which will increase the capacity for another 16,308 prisoners. Besides there is plan to build 5 more prisons to accommodate another 9,930 prisoners. It is believed that the newly built prisons will mitigate the prisoners'' accommodation problems to a large extent.

36. Necessary sanitation and water supply facilities are available in every prison. Prison Barracks and drains are cleaned and disinfected twice or thrice a day. Mosquito nets have been put/added to all prison barrack windows. Electric ceiling fan is available in every barrack.

37. Prisoners are segregated/separated according to Jail Code for their age, offence etc. with due safety. Juveniles are initially confined in special/separated wards. Thereafter, they are transferred to Juvenile Development Centres or Safe Homes. At this moment, there are only 5 juveniles in the prisons.

38. Following mechanisms are in place to monitor and investigate complaints about the conduct of prison and police officials and the conditions of detention:

(1) There is a branch at the Headquarters of Bangladesh Police namely Discipline and Professional Standard to monitor and investigate the conduct of a police officer if any complaint comes against him/her.

(2) Prison is controlled by IG Prisons in accordance with Jail Code.

(3) According to section 5 of the Torture and Custodial Death (Prevention) Act 2013, the Police Super can investigate the torture and cruelty committed against an accused or suspect of a case in police custody.

(4) The Police Super can initiate departmental proceeding against the defaulting custodian in accordance with the disciplinary rules and regulations of the Police.

(5) In every prison presence of an information/service desk led by a service officer has been made compulsory. Besides, Bangladesh prison (Jail) has left options in its website and Facebook page for individuals to comment on or complain against any prison personnel or any other issue related to prison condition.

39. According to the existing laws and procedure, the detainees are required to be presented before the magistrate within 24 hours of detention. The Magistrate may authorize detention for further period after careful examination of circumstances presented before him. The Supreme Court in BLAST vs. Bangladesh held that the Magistrate while passing an order of pre-trial detention should be satisfied that the investigation has yet to be completed, that the grounds for the arrest has been furnished to the accused, and that the accused has been given the opportunity to consult lawyer of his choice. The Magistrate must also hear the accused or his lawyer. The Supreme Court has also provided some directives and guidelines to law enforcement agencies, magistrates, judges, tribunals, in respect of preventive detention which is enclosed in the Annexure.

40. While acceding to ICCPR, the Government of Bangladesh made the following declaration — "So far as the first part of paragraph 3 of Article 10 relating to reformation and social rehabilitation of prisoners is concerned, Bangladesh does not have any facility to this effect on account of financial constraints and for lack of proper logistics support."

41. However according to the Children Act 2013 the Juvenile Courts are allowed to grant probation, diversion to children in conflict with the law irrespective of the offence committed. Besides, the Special Privileges for Convicted Women Act, 2006 has extended the scope to release women prisoners conditionally under the supervision of a Probation Officer. With respect to probation for adult men, the Probation of Offenders Ordinance, 1960 is still in effect.

Question 11

42. The Domestic Violence (Prevention and Protection) Act, 2010 deals with domestic violence. The Mobile Court Act, 2009 also addresses some forms of violence against women (VAW). A National Action Plan on VAW (NAPVAW) 2013-2025, developed jointly with the civil society, outlines actions against VAW. The High Court in 2010 laid down guidelines for the employers and educational institutions to form policies to address sexual harassment in work places, educational institutions and other public places. The High Court also directed the Government to enact legislation to address sexual harassment in public places. The Pornography Control Act, 2012 declares any pornographic recording and broadcasting as criminal offence.

43. The Ministry of Home Affairs (MOHA) has also set up an 'Acid Cases Monitoring Cell' and a special fund to assist the victims of acid attacks. Since 2010, the Cell in the Police Headquarters monitored some 433 cases of acid violence.

44. In order to ensure effective investigation of cases of domestic & sexual violence the government has established Nari Nirjatan Protirodh cell in P.HQ to monitor the cases, set up child friendly desks in every police station and women friendly desks in 40 Police stations. Besides, women Support Centres opened in SP office/Police units to help the women victim. At present, there are 08 victim support centres in the country.

45. During 2012-2016, the number of domestic violence cases filed is 30,797, the number of cases of sexual violence including acid attack is 18,404 and the number of sexual harassment case is 2847.

Question 12

The following steps are taken in practice to prevent and combat Human Trafficking:

- Enacted Deterrence and Suppression of Human Trafficking Act, 2012 and adopted strong anti-money laundering and mutual legal assistance laws in 2012; finalized a set of Rules for implementing the law.
- To put the law into effect, a National Plan of Action for Combating Human Trafficking for three years (2015-2017) has been adopted.
- Formed an inter-ministerial committee at the Ministry of Home Affairs to follow a number of important trafficking cases under trials.
- Set up Counter-Trafficking Committees (CTC) up to the Union level, the lowest tier of the local Goverament.
- Operationalized a Monitoring Cell at the Police Headquarters, a Trafficking in Human Beings (THB) Cell has also been set up in the Criminal Investigation Department (CID), to collect and analyze data on trafficking.
- Set up a web-based software titled 'Integrated Crime Data Management System (CDMS)' at the Police Headquarters', where every information of trafficking victims/survivors and other relevant statistics regularly preserved.
- Establish 8 victim support centers in human trafficking prone areas to extend humanitarian assistance, including medical, counseling, foods and shelter.

46. Till October 2015, the law enforcement agencies rescued 1138 trafficking victims out of 1577 persons trafficked. So far there had been 820 cases filed against traffickers. So far 15 convicts have been sentenced to life imprisonment in 2014 and 2015.

(b) The government has taken initiative to establish special tribunal to try trafficking related cases in every district. Necessary measures are being taken to strengthen the capacity of law enforcement and judicial officers in investigation and prosecution of the trafficking cases.

(c) The GoB regularly organises training programmes for the Police personnel on human trafficking. During 2012-2016, a total of 48224 police members have received training on human trafficking.

(d) In order to raise awareness about human trafficking, anti-human trafficking committee has been formed at the district level. Counter-trafficking messaging through national broadcasting media and other means, including through community policing, mobilizing social and religious leaders to raise awareness against dangers of human trafficking, organizing public meetings, folk theatres and musical concerts targeting grass root people are examples of few initiatives in this regards. The government is also running various anti-trafficking awareness programme in vulnerable districts with the help of international partners.

Question 13

47. The anti-trafficking laws and regulations are is applicable to everyone irrespective of occupation and any other status of the accused. During 2012-2016, one case has been filed (DMP, Air Port Police Station Case No.42, and dated17.02.2014) in which allegation of human trafficking has been brought against a government employee including others.

Question 14

48. Forced and bonded labour, as a form of slavery, is prohibited in Bangladesh.

49. With its limited resources, the Government of Bangladesh has been implementing programmes/projects on regular basis for abolition of child labour. The development partners have also come with funds to implement programmes on child labour. With all these efforts there has been remarkable success. At present, the Readymade Garments (RMG) sector and the Shrimp Processing Plant are free from child labour. Children are engaged mainly in informal sectors. It is expected that the volume of child labour in the country will be reduced to a considerable level in near future. Child labour issues have been incorporated in all major national development projects and plans (like Sixth Five Year Plan, national plan of action for education and reflection in annual budget etc.). The country has gradually been increasing coverage of social safety net programmes for its citizens which directly or indirectly affect abolition of child labour.

50. The Department of Inspection of Factories and Establishment (DIFE) officials regularly inspect shrimp and dried fish industries, construction sectors, brick factories and tanneries. A total 84 cases have been filed in 2015-16. Initiatives have been taken by government to eliminate hazardous child labour by 2021 and eradicate all forms of child labour by 2025 (Sustainable Development Goal).

Question 15

51. Under the Special Powers Act 1974, preventive detention may be ordered for the commission of "prejudicial act", which, according to Act, means any act which is intended or likely:

(i) To prejudice the sovereignty or defiance of Bangladesh;

(ii) To prejudice the maintenance of friendly relations of Bangladesh with foreign states;

(iii) To prejudice the security of Bangladesh or to endanger public safety of the maintenance of public order;

(iv) To create or excite feeling of enmity or hatred between different communities, classes or sections of people;

(v) To interfere with or encourage or incite interference with the administration of law or the maintenance of law and order;

(vi) To prejudice the maintenance of supplies and services essential to the community;

(vii) To cause fear or alarm to the public or to any section of the public;

(viii) To prejudice the economic or financial interests of the State.

52. An order of preventive detention will remain in force for 30 days unless it has been further extended with the approval of the Government. However, Article-33(4) of the Constitution provides that detention of a person for a period exceeding six months is not permissible unless extended only if an Advisory Board (constituted of three persons, of

whom two are, or have been, or are qualified to be appointed as judges of the Supreme Court and the other be a senior officer in the service of the Republic).

53. The Supreme Court of Bangladesh has on various occasions given directives with a view to regulating practices relating to preventive detention in a number of cases. In Dr. Habibullah vs. Secretary, Ministry of Home, the Supreme Court observed that the court is not required to wait for the opinion of the Advisory Board in a writ of habeas corpus dealing with preventive detention.

Question 16

54. There is no concept of mass criminal trial in Bangladesh. The co-accused individuals are indicted together, but each co-accused can cross-examine the prosecution individually. The prosecution has to prove allegation of offence against each co-accused separately. The fact that the proof of one co-accused's guilt does not automatically lead to proof of guilt of other co-accused. Trial of the members of Bangladesh Rifles (BDR) was held in ordinary criminal court where the Sessions Judge heard the case and announced verdict. The accused BDR personnel were accorded all rights applicable to any other accused individuals. The court procedure was open and public. The government appointed defence lawyers to those who failed to engage their own counsels. The death sentence announced by the Court is now pending 'death reference' hearing at the High Court Division.

55. The International Crimes Tribunals established under the International Crimes Tribunal Act 1973, (amended in 2009) to try internationally defined crimes, such as, genocide, crime against humanity and other international crimes committed during the war of liberation in 1971 by a domestic court. This was done under the 'complementarity principle' of Rome Statute in full compliance with relevant ICCPR provisions. The international standards of fair trial and due process have been incorporated both in the Act as well as the Rules of Procedures of the Tribunals, including the principles concerning fair and impartial tribunal, public trial, accused persons' right to know of charges and evidence and be presumed innocent until proved guilty, adequate time for preparation by defence, witness deposition to be cross-examined and testified by defence, and right of appeal against the final verdict. The ICT-BD maintains full public transparency in the conduct of the proceedings whereby the trials are neither summary nor closed, but are 'open trials' with full access given to national and international media, relatives of the victims and accused, members of diplomatic missions and research organizations. The convict has the right to appeal to the defence before the full bench of the Appellate Division, the highest court of the land, unlike in the Nuremberg and Tokyo trials as well as the international war crimes trials in Cambodia, former Yugoslavia and Rwanda. It has been seen on several occasions that the Supreme Court has overturned or commuted the sentences given by ICT-BD, including death sentences.

56. Extra-judicial punishments in the form of lashing, beating, cutting of hair, beating by shoes, forcing to beg pardon (Tawba), wrongful confinement, eviction from village and obstructing burial of dead bodies imposed by shalish are offences under existing criminal law (sections 295, 323, 326, 341, 342, 354, 508 of Bangladesh Penal Code). Imposition of interim (Hila) marriage and declaration & execution of oral talaq too are considered extra-judicial punishment and thus punishable offence. The persons inflicting such punishment/injuries are liable to be punished under the relevant provisions of the Penal Code and other relevant laws. The persons present at the place of occurrence of such shalish are also liable as abettors.

57. In addition, the High Court Division of Bangladesh Supreme Court, in the case of BLAST and Others vs. Government of Bangladesh and Others, declared that the imposition of extra-judicial punishments including those in the name of execution of fatwa is illegal. The High Court Division directed that the persons responsible for imposition of extra-

judicial punishments and the abettor(s) will be held responsible under the relevant sections of the Penal Code and other laws applicable in the regard. It also directed the law enforcing agencies and the Union Parishads and the Municipalities across the country shall take preventive measures and instructed the Ministry of Local Government to intimate the law enforcing agencies, all the Union Parishads and the Pourashavas across the country about the decision. The High Court Division further instructed the Ministry of Education to incorporate various types of articles and educational materials in the syllabus in school, college and University level and particularly in Madrasha level highlighting the relevant laws in this regard and discouraging imposition of extra-judicial punishment of any form in the name of execution of Islamic Sharia/Fatwa.

58. The Ministry of Education issued a circular banning corporal punishment in all educational institutions across the country.

59. In 2011, the Appellate Division of the Supreme Court further declared that fatwa could be issued on 'religious matters', but not to impose punishment. In this regard the Appellate Division prescribed certain conditions, such as, (i) Fatwa on religious matters must only be issued by educated persons; (ii) The fatwa issued may only be accepted voluntarily by the person upon whom it issued; (iii) Coercion or undue influence in any form to pressure an individual to accept a fatwa is forbidden; (iv) No person can pronounce a fatwa that violates or affects the rights, reputation or dignity of any person protected by the laws of the land; (v) No punishment, including physical or mental violence, may be imposed or inflicted on any person in pursuance of a fatwa; (vi) If any fatwa is issued violating these restrictions, it will amount to contempt of court and the offenders will be punished accordingly.

Question 17

60. From 2006 to 2016 the President has commuted death sentence of 29 convicts. Besides, between 2009 and 2016, under relevant provisions of Jail Code, the President has approved release/acquittal of 1658 individuals serving life imprisonment, 2195 prisoners with disability and 23 prisoners punished with death sentence.

Question 18

61. In respect of 'allegations that many journalists and in particular secular and atheist bloggers, journalists, publishers and editors as well as human rights defenders are subject to intimidation, arrest and harassment from extremists groups, or sometimes by the authorities themselves, and are denied protection by the authorities', response has been provided already (Issue 6).

62. During 2012-2016, 24 cases were registered against 118 persons under the Penal Code (section 295A and 298) for committing 'insult to religion'. Till date 04 cases have been disposed of with 1 conviction and 4 acquittals. During the same period of time, 726 cases have been registered under the Information and Communication Act 2006 (section 57) against 1399 persons.

63. During 2012-2016, a total of 190 incidents were recorded by the police against 1065 persons where persons from ethnic and religious minority community have complained of land grabbing, intimidation, extortion. Till date 24 cases were disposed of with conviction of 77 persons in 17 cases and acquittal of 22 persons in 07 cases.

Question 19

64. The Government of Bangladesh acknowledges the role of NGOs and the vibrant civil society in fostering its democratic environment and advancing its socio economic goals. While Bangladesh boasts a vibrant GO-NGO partnership that is rather unique for

many other comparable settings, it believes, it is the responsibility of the government to provide a well-defined and transparent legal framework for the NGOs to function effectively.

65. With that end in view the Government has enacted the Foreign Donation (Voluntary Activities) Regulation Act, 2016 which clearly defines approval rules for Individuals, Institutes and NGOs for receiving foreign fund. The Act consolidates piecemeal and scattered set of laws and rules that earlier used to guide the foreign funded voluntary activities by the NGOs. The bill underwent extensive consultations among the stakeholders with participation from national and international NGOs.

66. Under the new Act registration of NGOs has been made mandatory for receiving foreign donations. NGO Affairs Bureau of Prime Minister's Office has been assigned with the responsibility of facilitating the process. The Act has provisions for the NGOs to form union to promote their collective interest and foster greater cooperation with the government. It also instructs the NGO Affairs Bureau to provide approval of work within 24 hours for NGOs and individuals during after the disasters/emergency situation.

67. The government would formulate rules to implement this Act which will clarify further details on implementation of the Act. As has been done for the Act, the government would involve civil society and NGO leaders in the process of formulation of the rules.

Question 20

68. The Bangladesh Labour Act, 2006 (BLA), as amended in 2013 and the Rules made thereunder incorporates provisions relating to registration of trade unions. The registration process has become easier after the amendment of BLA in 2013 and enactment of the said Rules. The government has no authority to reject or abandon any valid applications for registration of trade unions even when there appears deficiency of papers and etc. [Section 179(2), 179 (2A), 182 (3), 178 (4). The aggrieved persons may also seek redress before the labour court under section 182 (4).

69. At present, there are 550 trade unions in the RMG sector out of which 418 have been registered after the amendment of BLA in 2013.

Total 55 anti-union discrimination allegations were raised during 2016 of which 89% was resolved.

Question 21

70. In Bangladesh the rate of registration of children under the age of 5 has increased from 9.8 per cent in 2006 to 31 per cent in 2011. In 2009, an online Birth Registration Information System (BRIS) was established. Until 29 October 2014, BRIS captured more than 119 million birth records out of 160 million people. The figure was a combination of birth records migrated from manual registration books and new registration entries.

71. At present 124 local offices of 11 City Corporations, 320 City Councils, 4571 Union Boards, 15 Cantonment Boards and 55 Embassies, in total 5085 offices are engaged in birth registration activities.

72. The Draft Citizenship Bill 2016 has not been finalized yet.

73. The Birth Registration Act, 2004 provides that the Registrar shall register the fact of birth of every natural person without distinction whatsoever as to religion, race, sex, colour etc. Registration of birth is to be completed within 45 days of birth of a child. There is no explicit bar in law with regard to the birth registration of the children whose father or mother is a refugee in Bangladesh.

Question 22

74. After the 10th parliamentary election held in January 2014, the Election Commission successfully conducted various local government elections (City Corporations, Upazila, Pourashavas/municipality and Union Parishads and in by-elections of Parliamentary and various local government bodies following the 10th Parliamentary elections). On 30 December 2015, during the elections held in 234 municipalities, 20 political parties, including Bangladesh Awami League (the party in power), Jatiya Party and Bangladesh Nationalist Party (BNP) participated by nominating their respective candidates. The voter turnout in municipal elections had been 73.92%. The Commission also organised elections in 4275 Union Parishad (UP) out of the country's 4500 UPs in six phases from 22 March 2016 to 4 June 2016 where 21 registered political parties including the major political parties took part by nominating their respective candidates. The average turnout of voter was more than 70% in the UP election.

75. After the expiry of the term of incumbent election Commission, a new Commission will begin its office. Although the constitution empowered the President to form an Election Commission on its own, the current President initiated a dialogue with the registered political parties to bring all stakeholders on board to ensure wider acceptance and credibility. After consultation with the political parties, the President formed a 'search committee' comprising members from civil society. The 'search committee' upon consideration of the names proposed by various registered political parties finally proposed potential names from which the President appoint the Chief Election Commissioner and 4 Commissioners. The new election commission constituted through a consultative process is expected to ensure spontaneous participation of all political parties in the upcoming elections.

76. The Representation of the People Order, 1972 (P.O and the Registration of Political Parties Rules 2008 govern registration of the political parties in Bangladesh. According to the said law, a political party will not qualify for registration if, among others, the objectives laid down in its constitution are contrary to the Constitution of Bangladesh; or it professes any kind of discrimination regarding religion, race, caste, language or sex as may be discerned from its constitution.

77. The registration of Jamaat-e-Islami has been cancelled following a judgment of the High Court Division of the Supreme Court in Writ Petition No. 630 of 2009 passed on 01 August 2013.

Question 23

78. Bangladesh government has decided to relocate/place the Myanmar Refugees (nearly 33000) and undocumented Myanmar nationals living in Bangladesh (over 300,000) to an island (Thanger Char) in Hatia. This island is part of Noakhali district which itself it a district of islands, locally known as chars. Before placing the Myanmar nationals in that island, the Government would develop necessary infrastructure including houses, mosques, schools, hospitals and roads. The actual placement will take place only after the area is developed.

79. Nearly 33,000 Myanmar refugees and more than 300,000 undocumented Myanmar nationals (UMNs) are currently living primarily in Cox's bazar district of Bangladesh. While the refugees live in camps established by UNHCR, the UMNs are living in multiple makeshift settlements since 2005. The settlements situated in Leda, Kutupalong, Samlapur and few other parts of Cox's Bazar district are mainly built with the help of international development partners. The UMNs are provided with humanitarian assistance and other basic services, such as, food/nutrition, healthcare, water and sanitation, services to the victims of gender-based violence etc. from various UN agencies, international

organizations and development partners. While the UN agencies, such as, UNFPA, WFP, UNICEF are already providing humanitarian assistances to UMNs, the International Organisation for Migration (IOM) is coordinating other humanitarian services funded by international NGOs, such as, Handicap International, MSF-Holland, ACF, Soliderité International USAID etc. Besides Bangladesh Red Crescent Society (BDRCS) delivers healthcare and WASH services, including sanitation, water supply, nutrition etc. among the undocumented Myanmar nationals.

80. Under the National Strategy adopted for UMNs, the government has conducted a census of UMNs living in Bangladesh. The Bangladesh Bureau of Statistics (BBS) has carried out the census in six districts i.e. Cox's Bazar, Rangamati, Bandarban, Khagrachari, Chittagong and Patuakhali. The first phase of data collection on the ground was completed by June 2016 and the second phase in currently under process. The census participants will be provided with an "information card" from IOM which would help the UMNs to have better access to healthcare and family planning services provided by the public healthcare facilities close to their current areas of residence. The census would allow the Government of Bangladesh to make suitable plans for enhancing access to education for the children of the UMNs, informal education in particular.

Question 24

81. There is no community or group of people designated or recognized as 'indigenous' in Bangladesh. However there are a number of 'ethnic minority' communities in Bangladesh who enjoy all constitutionally guaranteed fundamental rights. The constitution also mandates affirmative action for improvement of lives of ethnic minorities. For instance, ethnic minorities enjoy 5% quota in public service and in public educational institutions. Bangladesh has also ratified ILO Convention no. 107 which recognizes the rights of ethnic persons to participate in decision — making process that affects their lives and livelihoods.

82. The Small Ethnic Communities Cultural Institutions Act 2010 has been enacted to preserve and promote the culture, heritage, language, religious practices and traditional lifestyle of all ethnic communities living in the hill districts and plain lands.

83. Although currently the Act formally recognizes 27 ethnic minorities in the country a National Committee chaired by the Cultural Affairs Minister recommended that the list should be updated to include a total of 49 ethnic minority communities.

Question 25

84. The Government of Bangladesh has prepared this initial State party report through a series of consultations with relevant government Ministries/agencies and civil society including National Human Rights Commission and non-governmental organizations dealing with human rights. The non-government entities consulted during the preparation of the report are as below:

1. National Human Rights Commission (NHRC)
2. Ain O Shalish Kendra (ASK)
3. Transparency International, Bangladesh (TIB)
4. BRAC Human Rights and Legal Aid Services (HRLS)
5. BRAC Institute of Governance and Development (BIGD)
6. Research and Development Collective (RDC)
7. Bangladesh Hindu Buddhist Christian Unity Council
8. Nariokkho

9. Manusher Jonno Foundation (MJF)

10. Bangladesh Nari Progoti Sangstha

11. Nagorik Uddyog

12. Nijera Kori

13. Democracywatch

14. PRIP Trust

15. Bangladesh Legal Aid Services (BLAST)

16. Bangladesh National Women Lawyers Associations (BNWLA)

17. Bangladesh Mahila Parishad

18. Bangladesh Karmajibi Nari (BKN)

19. WAVE Foundation

85. The government would continue with the treaty reporting on ICCPR on a regular basis. Therefore in future during its preparation of periodic reports, it would make sincere efforts to include wider section of stakeholders, particularly the civil society.